

Notice of Allowability

Application No.

10/600,596

Examiner

Stanley J. Pruchnic, Jr.

Applicant(s)

SHIBATA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 18 June 2004.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/984,908.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 20040302.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/25/04 (15 sheets)
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jerome W. Massie on **2 July 2004**.

2. The application has been amended as follows in order to avoid a Double Patenting rejection of Claims 7-12 under 35 U.S.C. 101 as claiming the same invention as that of claims 1-6 of prior U.S. Patent No. 6,666,577 (Hereinafter PARENT).

3. **Claims 7-12** have been *canceled*.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance:

Applicant's arguments, see REMARKS, filed 18 June 2004, with respect to the provisional Double Patenting rejections under 35 U.S.C. 101 and obviousness-type double-patenting, have been fully considered and are persuasive in view of the Express Abandonment of copending Application No. 10/638,062. Applicant's arguments with respect to the rejections of Claims 1-6 under 35 U.S.C. 102(e) and 103(a) have been fully considered and are persuasive in light of the amendment to Claim 1. The rejections of Claims 1-6 have been withdrawn.

Claims 7-12 would be allowable over the art of record for the reasons already of record in the PARENT application, except that Claims 7-12 are identical to Claims 1-6 of

the patent as described above in Paragraph 2. **Claims 1-6** are therefore allowable in view of the cancellation of Claims 7-12.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Drawings

5. In order to avoid abandonment, the drawing informalities noted in the paper mailed on 03/19/2004, must now be corrected. Correction can only be effected in the manner set forth in the above noted paper. Although the Response filed 6/18/04 indicated the corrected drawings were attached, they were not found.

Information Disclosure Statement

6. Applicant's information disclosure statement of 25 February 2004 (Attached) has been fully considered regarding all Claims 1-12. However, as Applicant has described in the REMARKS, filed 18 June 2004, the Examiner has already listed these references in a PTO-892 form mailed with the Office Action of 19 March 2004. Applicant requested the Examiner indicate by his initials that these cited references have been considered with regard to all pending claims 1-12, including the Claims 7-12 which are the same claims as filed in the PARENT.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stanley J. Pruchnic, Jr., whose telephone number is **(571) 272-2248**. The examiner can normally be reached on weekdays (Monday through

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Friday) from 7:30 AM to 4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. F. Gutierrez can be reached at (571) 272-2245.

The **Official FAX** number for Technology Center 2800 is (703) 872-9306 for **all official communications**.

Any inquiry of a general nature or relating to the status of this application or proceeding may be directed to the official USPTO website at <http://www.uspto.gov/> or you may call the **USPTO Call Center** at 800-786-9199 or 703-308-4357. The Technology Center 2800 Customer Service FAX phone number is (703) 872-9317.

The cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources.

Private PAIR provides external customers Internet-based access to patent application status and history information as well as the ability to view the scanned images of each customer's own application file folder(s).

For inquiries relating to Patent e-business products and service applications, you may call the **Patent Electronic Business Center (EBC)** at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: ebc@uspto.gov. Additional information is available on the Patent EBC Web site at: <http://www.uspto.gov/ebc/index.html>.



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7/2/04

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